

SENATE No. 729

The Commonwealth of Massachusetts

PRESENTED BY:

Barbara A. L'Italien

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to accessory dwelling units.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/25/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>1/30/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/1/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/1/2017</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>2/1/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>2/1/2017</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>2/1/2017</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/2/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/2/2017</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>2/2/2017</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>2/2/2017</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>2/3/2017</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/3/2017</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>2/3/2017</i>
<i>James M. Murphy</i>	<i>4th Norfolk</i>	<i>2/3/2017</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>	<i>2/3/2017</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/6/2017</i>

SENATE No. 729

By Ms. L'Italien, a petition (accompanied by bill, Senate, No. 729) of Barbara A. L'Italien, Jason M. Lewis, Jack Lewis, Denise Provost and other members of the General Court for legislation relative to accessory dwelling units. Housing.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to accessory dwelling units.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 5. Section 3 of said chapter 40A of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by adding the following paragraphs:-

3 No zoning ordinance or by-law shall prohibit or require a special permit for the use of
4 land or structures for an accessory dwelling unit or the rental thereof in a single-family
5 residential zoning district on a lot with 5,000 square feet or more or on a lot of sufficient area to
6 meet the requirements of title 5 of the state environmental code established by section 13 of
7 chapter 21A, if applicable, that is occupied by the owner, so long as that unit or the principal
8 dwelling is occupied by at least one person with disabilities or who is elderly. Such land or
9 structures may be subject to reasonable regulations concerning dimensional setbacks and the
10 bulk and height of structures. The zoning ordinance or by-law may require that the principal
11 dwelling or the accessory dwelling unit be owner-occupied and may limit the total number of
12 accessory dwelling units in the municipality to a percentage not lower than 5 percent of the total

13 non-seasonal housing units in the municipality. Not more than 1 additional parking space shall
14 be required for an accessory dwelling unit but, if parking is required for the principal dwelling,
15 that parking shall either be retained or replaced. As used in this paragraph, “accessory dwelling
16 unit” shall mean a self-contained housing unit, inclusive of sleeping, cooking and sanitary
17 facilities, incorporated within the same structure as the principal dwelling or in a detached
18 accessory structure and that: (i) is located on the same lot as the principal dwelling; (ii) maintains
19 a separate entrance, either directly from the outside or through an entry hall or corridor shared
20 with the principal dwelling; (iii) shall not be sold separately from the principal dwelling; (iv) is
21 not smaller in floor area than 450 square feet; (v) may include up to two bedrooms; and (vi) is
22 not larger in floor area than ½ the floor area of the principal dwelling or 900 square feet,
23 whichever is smaller. An accessory dwelling unit allowed under this paragraph is considered
24 owner-occupied upon transfer of title of the principal dwelling in whole or in part to a trust in
25 which at least one beneficiary is a person with disabilities or an elderly person, so long as some
26 part of the dwelling is occupied by a person with disabilities or an elderly person. Nothing in this
27 paragraph shall authorize an accessory dwelling unit to violate the building, fire, health or
28 sanitary codes or wetlands laws, ordinances or by-laws.

29 When used in this section, the term “person with disabilities” means a person who has
30 been determined to be disabled (i) in accordance with criteria established by local bylaw or
31 ordinance, if any, or (ii) by the Social Security Administration or MassHealth, notwithstanding
32 any local bylaw or ordinance; and “elderly” means sixty-five years of age or older.